



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP/168411

PRELIMINARY RECITALS

Pursuant to a petition filed September 02, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waupaca County Department of Social Services in regard to Medical Assistance, a hearing was held on December 09, 2015, at Waupaca, Wisconsin.

The issue for determination is whether Petitioner was overpaid Medicaid benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Sherry Blomberg

Waupaca County Department of Social Services
811 Harding Street
Waupaca, WI 54981-2087

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waupaca County.
2. Petitioner was sent three notices of overpayment of health care benefits. Two are dated July 20, 2015, one of which informed Petitioner that she had been overissued Medicaid benefits in the amount of \$25.00 for the month of December 2013 because she should have had a MAPP premium and the other indicating an overpayment of \$104.90 for the month of December 2013 as the State paid Petitioner's Medicare Part A and B premium but should not have. The third notice indicates Petitioner was

overpaid Medicaid benefits in the amount of \$129.90, i.e., it consolidates the total overpayment noted in the first two notices.

3. Two theories for the overpayment have been advanced by the agency – that Petitioner was over assets as she was not living in her home and that she failed to report a new job in October 2013 but had she done so she would not have been income eligible for the QMB benefit and would have had to pay a MAPP December 2013.
4. This was a Medicaid group size of 1 at all times relevant here – Petitioner.

DISCUSSION

The Department may recover any overpayment of medical assistance that occurs because of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665 [BadgerCare].
 2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
 3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.
- Wis. Stat. § 49.497(1).*

All medical assistance recipients must report changes to the agency within 10 days. *Wis. Admin. Code, § DHS 104.02(6). Medicaid Eligibility Handbook, §2.01, release 13-01.* The notices here do, however, state that income changes had to be reported by the 10th of the next month. See, e.g., October 7, 2013 benefit notice at page 4, part of omnibus Exhibit 3.

Also relevant here - the State Medicaid Qualified Medicare Beneficiary (QMB) program pays the Medicare Part A and B premiums for those eligible for QMB. Eligibility is dependent, among other criteria, a person being financially eligible. The gross income limit in late 2013 for a group of one was \$957.50. *See Operations Memo, § 13-02, issued February 4, 2013.*

As for the MAPP premium - in general, a person can be eligible for MAPP if his/her countable income is less than 250% of the federal poverty level - for one person \$2393.75 in late 2013. Petitioner's income was under the gross income limit. However, persons with gross income in excess of 150% of the federal poverty level must pay a monthly premium. The 150% premium income limit for a one person MAPP household was \$1436.25 in late 2013. See, again *Operations Memo 13-02.*

I am not sustaining the Medicaid overpayments alleged here. The asset based theory of the overpayment is not supported as Petitioner may have lived out of her home at varying periods of time but December 2013 was not one of those times.

The income theory may be correct for some month but not for December 2013. The records submitted by the agency (Omnibus Exhibit # 3) do not include any case notes so fall short of indicating a lack of contact with the agency. Further, the records show that Petitioner began new employment on October 25, 2013. She did earn about \$1450.00 in gross income in November 2013 with the second paycheck dated November 22, 2013 - that would not have been reported until December 2013 and would have affected January 2014 benefits not December benefits

CONCLUSIONS OF LAW

That the evidence is not sufficient to sustain the Medicaid overpayment that was the subject of this appeal.

THEREFORE, it is

ORDERED

That this appeal is remanded to the agency with instructions to rescind the overpayments that were the subject of this hearing. This must be done within 10 days of the date of this Decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of January, 2016

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 22, 2016.

Waupaca County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability